

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE BOARD OF NURSING

In the Matter of Rebecca E. Francis,
L.P.N., License No. 38820-1

FINDINGS OF FACT,
CONCLUSIONS,
AND RECOMMENDATION

This matter came on for a Prehearing Conference before Administrative Law Judge Beverly Jones Heydinger at 9:30 a.m. on January 3, 2003 at the offices of the Board of Nursing, 2829 University Avenue S.E., Suite 500, Minneapolis, Minnesota. Ruth E. Flynn, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, Minnesota 55101-2131, appeared for the Board. Rebecca E. Francis, Licensee, did not appear in person or by counsel. The record closed on the date of the Prehearing Conference.

NOTICE

This report is a recommendation, not a final decision. The Minnesota Board of Nursing will make the final decision after a review of the record and may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendation. Under Minn. Stat. § 14.61 (2002), the Board shall not make a final decision until this Report has been made available to the parties for at least ten days. The parties may file exceptions to this Report and the Board must consider the exceptions in making a final decision. Parties should contact the Board at the address above to learn the procedure for filing exceptions or presenting argument.

If the Board fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Board, or upon the expiration of the deadline for doing so. The Board must notify the parties and the Administrative Law Judge of the date on which the record closes.

STATEMENT OF ISSUES

1. Is the Licensee unable, or potentially unable, to practice nursing with reasonable skill and safety to patients because of illness, use of alcohol, drugs, chemicals, or as a result of any mental or physical condition?

2. Did the Licensee fail to cooperate with an investigation of the Board?
3. Is the Board justified in taking disciplinary action against the Licensee?

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On December 5, 2002 the Notice of and Order for Prehearing Conference and Hearing in this matter was served by first class mail upon Rebecca E. Francis, 7640 Jasmine Loop NE, Sauk Rapids, MN 56379, her last known address on file with the Board of Nursing. It notified the Licensee of the Prehearing Conference scheduled for January 3, 2003. The letter was not returned to the Board.

2. On January 3, 2003, the Licensee failed to appear at the Prehearing Conference, or to notify the Board or the Administrative Law Judge that she was unable to appear.

3. The Notice of and Order for Prehearing Conference and Hearing informed Respondent that if she failed to appear at the Prehearing Conference the allegations against her, set forth in the Notice of and Order for Prehearing Conference and Hearing, could be taken as true, and a default order could be issued. She was informed that such an order could result in disciplinary action, including loss of license.

4. Because the Respondent failed to appear, she is in default.

5. Pursuant to Minn. Rules part 1400.6000, the allegations contained in the Notice of and Order for Prehearing Conference and Hearing are taken as true and incorporated into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Board of Nursing and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 148.261 and 214.103, subd.7 (2002).

2. The Board has given proper notice of the hearing in this matter and has fulfilled all relevant substantive and procedural requirements of law and rule.

3. The facts set out in the Notice of and Order for Prehearing conference and Hearing constitute violations of Minn. Stat. § 148.261, subd. 1(9). The statute provides that disciplinary action may be taken for the following reasons:

Actual or potential inability to practice nursing with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs,

chemicals, or any other material, or as a result of any mental or physical condition.

4. By failing to attend the conference with Board staff scheduled for September 30, 2002, the Licensee has failed to cooperate with an investigation of the Board in violation of Minn. Stat. §§ 148.261, subd. 1(23), and 148.265.

5. Licensee's conduct constitutes grounds for the Board to take disciplinary action.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED: that the Board take disciplinary action against Rebecca E. Francis, L.P.N.

Dated this 7th day of January, 2003.

S/ Beverly Jones Heydinger

BEVERLY JONES HEYDINGER

Administrative Law Judge

Reported: Default

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1 (2002), the Board is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

MEMORANDUM

The Respondent did not appear at the prehearing conference to refute the allegations against her, nor did she contact the Board or the Administrative Law Judge to ask for a continuance of this matter. The facts alleged by the Board are taken as true. Absent any evidence to the contrary, the facts reasonably support the conclusions

BJH